

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

CLETUS JOHN ROBERT FRANKLIN, )  
                                    )  
Plaintiff,                     )  
                                    )  
v.                                 )                                  No. 3:19-CV-416-CLC-DCP  
                                    )  
DONALD KERN, JOHN P.         )  
MCCORMICK, and QCHC, INC., )  
                                    )  
Defendants.                     )

**M E M O R A N D U M**

This is a pro se prisoner's complaint for violation of 42 U.S.C. § 1983. Now before the Court is Defendants' motion to dismiss this action [Doc. 50]. In this motion, Defendants indicate that when they attempted to take Plaintiff's deposition, Plaintiff told them that he intended to voluntarily dismiss this action and the parties therefore agreed that the deposition should not proceed [*Id.* at 1–2]. Defendants specifically assert that Plaintiff told them that he had filed a motion to voluntarily dismiss the case but also authorized Defendants to file such a motion stating that Plaintiff intended to voluntarily dismiss the case if the Court did not receive Plaintiff's motion [*Id.*]. In support thereof, Defendants filed a transcript of the brief conversation they had with Plaintiff in lieu of taking Plaintiff's deposition [Doc. 50-1 p. 4–7]. Plaintiff has now filed a response agreeing with Defendants' motion to dismiss this action and stating his intention to voluntarily dismiss this action [Doc. 51].

Accordingly, Defendants' motion to dismiss this action [Doc. 50] will be **GRANTED** and the Clerk will be **DIRECTED** to terminate Plaintiff's pending motion [Doc. 48]. Also, the Court will **CERTIFY** that any appeal from this dismissal would not be taken in good faith.

**An appropriate order will enter.**

/s/  
**CURTIS L. COLLIER**  
**UNITED STATES DISTRICT JUDGE**